



"No proceedings for compensation shall be maintainable under the workmens compensation act unless a written claim for compensation shall be served upon the employer by delivering such written claim to him or his duly authorized agent, or by delivering such written claim to him by registered or certified mail within two hundred (200) days after the date of the accident, or in cases where compensation payments have been suspended within two hundred (200) days after the date of the last payment of compensation; . . ."

K.S.A. 44-557 requires that an employer file a report of accident with the Workers Compensation Division within twenty-eight (28) days after the receipt of knowledge of an accident suffered by an employee. K.S.A. 44-557(c) states in part:

". . . except that any proceeding for compensation for any such injury or death, where the report of the accident has not been filed, must be commenced by filing an application with the director within one year from the date of the accident, suspension of payment of disability compensation, the date of the last medical treatment authorized by the employer, or the death of such employee referred to in K.S.A. 44-520a and amendments thereto."

It is acknowledged by the parties no accident report was filed by the employer prior to claimant having submitted written claim on August 28, 1995. The testimony by claimant and her husband verifies that the respondent, M. Bruenger and Company, and its insurance carrier, Hartford Accident and Indemnity, have provided no temporary benefits and have paid for no medical treatment resulting from this accident. As such, the appropriate time limit would run one (1) year from March 9, 1994. Claimant having submitted written claim in August 1995, exceeded the time limit specified in both K.S.A. 44-520a and K.S.A. 44-557. Therefore, based upon the evidence submitted, the Appeals Board finds claimant has failed to prove written claim was timely submitted and benefits for this accident must be denied.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated October 26, 1995, should be, and is hereby, affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of December 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Ray Hodge, Wichita, Kansas  
P. Kelly Donley, Wichita, Kansas  
Marc Berry, McPherson, Kansas  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director